FISCAL NOTE

Bill #:	HB0410	**Title:**	Revise date of lien and taxation for new construction
Primary Sponsor:	Facey, T	**Status:**	As Amended in House Committee - Amended

Sponsor signature Date David Ewer, Budget Director Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
General Fund	$391,844	$446,416
Revenue:		
General Fund	$249,513	$518,488
State Special Revenue	$15, 758	$32,747
Net Impact on General Fund Balance:	($142,331)	$72,072

☒ Significant Local Gov. Impact	☒ Technical Concerns
☐ Included in the Executive Budget	☐ Significant Long-Term Impacts
☐ Dedicated Revenue Form Attached	☒ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Revenue (DOR)

1. This proposal requires that a special assessment by the Department of Revenue take place for newly constructed or newly expanded residential or commercial improvements constructed during a tax year and that are completed after January 1. The market value of newly constructed improvements must be greater than $20,000, and if remodeled must expand the size of the improvement.
2. New residential and commercial real improvements are to be assessed and taxed as of the date of occupation or use.
3. Under the proposal, the owner of newly constructed or newly expanded improvements must notify the department within 30 days from the date of occupation or use of the improvements. If the owner fails to notify the department within the allotted time, a penalty of .667 percent of the amount of the tax due is added to the tax bill.
4. The tax bill and the penalty described in assumption 3 are due within 30 days if DOR determines the amount of taxes due prior to the 2nd Monday in August.
5. For newly constructed or newly expanded property discovered after the 2nd Monday in August of the tax year, the entire amount of the tax bill is payable by May 31st of the following year.

6. It is assumed that 70 percent of new residential and commercial improvements fit the proposal's criteria of being assessed during the year.
7. For purposes of this fiscal note, since owners of completed property are asked to self-report, compliance is estimated at 60 percent.
8. It is also assumed that the average completion date for new residential and commercial improvements is September 1, which is an average estimated assessment period of four months, or one third of the year on new residential and commercial improvements completed during the year.
9. The proposal is effective for tax years beginning after December 31, 2005, or midway through FY 2006. Since the proposal is effective midway through the fiscal year, FY 2006 impacts are projected using half, or 50% of a full years impact.
10. The total value of new residential and commercial improvement properties not assessed as of January 1, 2004 have an estimated fiscal year 2005 <u>taxable</u> value of $36,148,500 (DOR). Projected growth of residential and commercial improvement properties is 3.9 percent per year. The estimated FY 2006 taxable value of new residential and commercial improvements is $37,558,300 ($36,148,500 x 103.9%). The FY 2007 taxable value is $39,023,100 ($37,558,300 x 103.9%).
11. For FY 2005, the statewide average mill levy for residential and commercial improvements is 524.58. Applying the estimated statewide average mill to the total projected FY 2006 and FY 2007 taxable values of new residential and commercial improvements produces an estimated statewide change in revenues generated from new residential and commercial improvements of $19,702,333 ($37,558,300 x 0.52458) for FY 2006, and $20,470,738 ($39,023,100 x 0.52458) for FY 2007.
12. Applying the aforementioned assumptions, estimated statewide revenues generated from newly completed real residential and commercial improvements not assessed or taxable as of the preceding January 1 is $1,377,784 ($19,702,333 x 70% x 60% x 33.3% x 50% for half year) for FY 2006, and $2,863,037 ($20,470,738 x 70% x 60% x 33.3%) for FY 2007.
13. The distribution of estimated revenues for FY 2006 from a special assessment on improvements completed during a tax year that were not assessed or taxable as of the preceding January 1 is $249,513 to the state general fund, $15,758 to the university system 6 mills, and $1,112,512 to local governments and schools. The distribution of estimated revenues for FY 2007 from a special assessment for improvements completed during a tax year that were not assessed or taxable as of the preceding January 1 is $518,488 to the state general fund, $32,747 to the university system 6 mills, and $2,311,803 to local governments and schools.

<u>Expenditures:</u>

14. No expenses have been recognized for identifying, reviewing, assessing, taxing, or responding to the reviews and appeals of Class 4 industrial property that may become subject to the bill. It is assumed that current appraisal staff, processes, procedures, and expenses of the industrial appraisal bureau will accommodate any changes that occur to these properties.
15. *Identifying and reviewing newly constructed property* - For FY 2006, 20,500 new construction parcels are estimated. New construction is estimated to grow at ten percent per year; therefore 22,550 new construction parcels are estimated in FY 2007. Each new construction visit and appraisal will require 0.50 hours. Total time required to complete an appraisal in FY2006 is 10,250 hours (20,500 x .5 hours). In FY2007, total time required is 11,275 hours (22,550 x .5 hours).
16. To appraise "in use" or "occupied" new construction, 6.00 FTE will be needed in FY 2006. For FY 2007, 6.50 FTE will be necessary. These appraisal positions will be hired at state pay grade 12. Salary and benefits in FY2006 will be $233,756 and $249,639 in FY2007.
17. *AB-26 review* - For FY 2006, 20,500 new construction parcels are estimated. New construction is estimated to grow at ten percent per year; therefore 22,550 new construction parcels are estimated in FY 2007. An estimated ten percent of newly constructed properties will request an informal review (AB-26 process) and each of these reviews will take one hour. In FY 2006, the estimated total time required to complete an AB-

26 review is 2,050 hours (20,500 parcels x 10% x 1 hour per review). In FY 2007, total time required is 2,255 (22,550 x 10% x 1 hour).

18. To accomplish the AB-26 review, the department will need 1.00 FTE in both FY 2006 and FY 2007. These appraisal positions will be hired at state pay grade 12. Salary and benefits in FY 2006 will be $38,959 and $38,831 in FY2007.
19. *County Tax Appeal Board (CTAB) hearings* - It is estimated that 25 percent of those that file for AB-26 will continue their objections by filing a county tax appeal. Because of the timing associated with filing a county tax appeal, there will be no impact in FY 2006. However, for those properties that are taxed under the proposal, FY 2006 appeals are anticipated in FY2007. In FY 2007, there will be 513 CTAB appeals associated with FY 2006 taxation under the proposal (2,050 AB-26 x 25% = 513 CTAB appeals). For FY 2007, there will be an additional 564 CTAB appeals (2,255 AB-26 x 25% = 564). This yields a total of 1,077 county tax appeals in FY 2007. It is estimated that preparation and testimony for each appeal will require a minimum of 8 hours per appeal.
20. To prepare for the CTAB appeals, 5.00 FTE in FY 2007 will be necessary. These appraisal positions will be hired at state pay grade 12. Salary and benefits will be $194,411 in FY 2007.
21. *Administrative Staff* – The department will need 1.00 FTE each year of the biennium in administrative staff. For FY 2006, administrative staff will review each notification provided by the owner. This single position is a grade 8 Property Valuation Specialist. Salary and benefits for this position will be $25,126 in FY 2006 and $25,052 in FY 2007.
22. *Computer Programming Staff* - One computer programmer, at a grade 16 pay level will be required to create a new field on the Montana Ownership Database System (MODS) for the special assessments for occupancy of the improvements. This work equates to 0.3 FTE, with salary and benefits estimated at $15,977 in FY 2006 only.
23. The CAMA system is the legacy system that assists the field staff in the estimation of value of all taxable property in Montana. It is a DOS based, flat file system. As such, alterations can have more significant impact than other relational based systems. HB 410 requires that the DOR send a special assessment when the new construction property is occupied and also to track newly taxable value property for an additional year. The programming changes are estimated at 80 hours by the department CAMAS vendor. The cost is $12,000 in FY 2006 only.
24. The intent is to mail applications to all new construction property owners that reside on the CAMA system. The volume of forms and mailing costs are estimated at 20,500 forms in FY 2006 and 22,550 forms in FY 2007. The department must distribute enough forms so that taxpayers with new construction that becomes used or occupied can notify the DOR of its date of use or occupation. The cost to create and distribute the occupancy certificate is $9,590 for FY 2006 and $9,790 for FY 2007.
25. The bill will require the mailing of additional assessment notices. The cost to print new assessment notices for FY 2006 equals $3,403 and $3,743 for FY 2007. The cost of the paper stock for printing the assessment notices is $668 for FY 2006 and $735 for FY 2007. The mailing cost equals $7,585 for FY 2006 and $8,325 for FY 2007. The total cost is estimated at $11,656 for FY 2006 and $12,803 for FY 2007.
26. It is assumed that the DOR will provide a taxpayers education program for the proposed bill. Newspaper advertisements $15,156 (2/ads x 11/daily papers x $688.90/each ad); and $10,451 (1/ad x 72/weekly papers x $145.15/each ad). Radio and television announcements will incur a cost of $13,750 in FY 2006 (radio production cost = $750; television production cost = $2,000 and statewide coordination charge = $11,000). These are one-time only expenses totaling in FY 2006 of $39,357.
27. Operating and employee expenses for the 8.30 FTE in FY 2006 and 13.50 FTE in FY 2007 are estimated at $34,994 in FY 2006 and $39,264 in FY 2007. Costs include rent, supplies, maintenance, training, and phone and data network connections. One-time-only new employee purchases are $59,740 in FY 2006 only.

Office of Public Instruction

28. The increase in property tax values from the HB 410 would impact the state's obligation to fund the guaranteed tax base aid for school districts and counties.
29. Under the proposal, property tax values increase by 0.1447% in FY 2006, and 0.2953% in FY 2007. Increased taxable values results in a guaranteed tax base (GTB) cost reduction. The guarantee level is determined by the prior year taxable values applied against current year taxable values.
30. The decreased cost for guaranteed tax base aid for the district general fund will be $62,511 in FY 2006, and $68,678 in FY 2007. Countywide retirement GTB will decrease by $26,800 in FY 2006, and by $54,696 in FY 2007 based on a historical average of 27% of the costs paid for by the state, and FY 2004 county levies equal to $68.6 million ($26,800 =.1447% x $68.6 million local levies x 27% and $54,696 =.2953% x $68.6 million local levies x 27%).

FISCAL IMPACT:

	FY 2006 Difference	FY 2007 Difference
FTE	8.30	13.50
Expenditures:		
Personal Services	$313,818	$507,933
Operating Expenses	107,597	61,857
Equipment	59,740	0
Local Assistance (schools/OPI)	(89,311)	(123,374)
TOTAL	$391,844	$446,416
Funding of Expenditures:		
General Fund (01)	$391,844	$446,416
Revenues:		
General Fund (01)	$249,513	$518,488
State Special Revenue (02) *Six Mill Account*	$15, 758	$32,747
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	($142,331)	$72,072
State Special Revenue (02) *Six Mill Account*	$15, 758	$32,747

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

It is estimated that there will be additional revenue of, $1.1 million in FY 2006, and $2.3 million each year thereafter for local governments and schools. However, the counties will incur additional administration expenses (see technical notes #7, #9, and #13).

TECHNICAL NOTES:

1. The proposal refers to property that is "occupied or property that is put in use". It is unclear what constitutes put in use. Clarification language should be added.
2. Per 15-8-201, MCA, the general assessment date for property tax purposes is January 1 of each tax year. In new section 1, sub-section 8, the meaning and use of the July 1 date is uncertain and it appears to establish a secondary general assessment date that applies only to newly constructed property. Clarification should be provided.
3. Under the proposal, an "either/or" assessment date for newly constructed property appears to be created with the "date of occupation" or "in use" provisions. It does not create a priority for the choice. An improvement could be occupied for a number of years before it is used for its intended purpose. Under this bill, a taxpayer could argue the property would not be taxable until it is used for its intended purpose. Additionally, if an improvement is subject to the provisions of this bill and it is not occupied or used for three years, the improvement would not be taxable until occupied or used. If the bill is intended to prevent taxation of this property until it is occupied or used, then the assessment option should be predicated on which comes first, either occupation or intended use. If the intent is to make the property taxable immediately, then the assessment option should be deleted and the property should become taxable upon a date certain.
4. Under the proposal, a penalty is assessed if the owner of the occupied or in use property does not report to the department within 30 days. The proposal also allows the penalty and interest provisions of 15-16-102(2) and (3) to be applied against the property. It would seem reasonable to allow one or the other penalty, but not both.
5. Section 1(2)(B) and 1(5) of the bill provides for the tax and penalty assessments to be calculated based on the number of days left in the year after the property is occupied or put in use. The penalty provision would be difficult to administer because the number of days that the owner occupied or used the property without contacting DOR would be in question.
6. The language in subsections (3)(b), (3)(c), and (4) does not seem to conform with existing law and the DOR's practices. The assessment, notice, and appeal provisions applicable to other appraisals should apply. A taxpayer MUST have an opportunity for a hearing prior to a tax becoming due.
7. Section 1(6)(a) requires the county treasurer to notify the person to whom the tax is assessed of the amount due. There is a potential for significant changes to local government computer systems for billing and tracking of these special assessments.
8. Section 6 of the bill amends 15-15-102, MCA, to allow the taxpayers affected by the provisions of new section 1 to file an appeal with the department or with the County Tax Appeal Board (CTAB) either after receiving the special assessment, or the result of a review pursuant to an AB-26. This could result in year round reviews of property via the AB-26 process and appeal process. The Department of Revenue (DOR) is not currently staffed for that continuous review and appeal activity.
9. The proposal does not identify the effect that increased property values and tax revenues may have on the guaranteed tax base aid (GTB) received by school districts. How the value associated with these properties impact the GTB and any re-calculation of state aid associated with the proposal should be included in the bill.
10. Under section 1, sub-section 8 of the proposal, certain dates are established for newly constructed and discovered property. Properties discovered prior to July 1 of a tax year are included in the current year mill levy calculations as newly taxable property. Property discovered after July 1 of the current tax year will be included in the following tax year calculations. This will require DOR to identify and maintain the value of the post July 1 discovery properties for a greater period of time. The department's computer system is not capable of these actions and will require additional funding.

11. In new section 1, sub-section 8, the language discussing the "total taxable value of newly taxable property for the purposes of 15-10-202(1)" is only partially complete. The total taxable value of newly taxable property must be included in both the certified taxable value {15-10-202(1), MCA} *and* separately identified as newly taxable property. Language should be added to include the properties referenced in this section as both a part of the certified taxable value and the newly taxable value. Additionally, the property included as newly taxable property should specified in the calculation under 15-10-420, MCA.
12. Under current law, newly taxable property is excluded from the calculations determining local government mill levies. When the mill levy is applied to the taxable value of these properties, the revenue is considered "growth", rather than maintenance of the budget limitations imposed by 15-10-420, MCA. The proposal continues that practice to a point. However, newly constructed property discovered after July 1 is subject to the current year mill levy, although the value of the property was not considered in the mill levy calculation. The pro-rated revenues associated with these properties are additional, unplanned revenue for the government units, including the state. Before the value of the property is included in the budgeting process, it will have paid one year's worth of taxes, prorated from the time of discovery, based on the provisions of the bill. If property is taxed at 100% complete and has been subject to the fiscal year mill levy, is it "newly taxable property" as defined in 15-10-420-3(b), MCA?
13. Section 2 of the proposal allows a refund of property taxes paid in the year upon the destruction of property. Local government mill levies and budgets are set upon values as of January 1 of the tax year. Allowing a refund of taxes paid could cause local government budget shortfalls.